

August 4, 1969



OPINION LETTER NO. 360

Answered by letter - Bartlett

Dr. Ben Morton
Executive Secretary
Missouri Commission on
Higher Education
602 Clark
Jefferson City, Missouri 65101

Dear Dr. Morton:

Pursuant to the request contained in your letter of July 9, 1969, that this office advise you whether the Missouri Commission on Higher Education can enter into a reinsurance agreement with the United States Office of Education, we have reviewed the Agreement for Federal Reinsurance of Loans Insured Under Section 428(b) of the Higher Education Act of 1965 proposed by the Office of Education.

Our review has taken into consideration (1) the Higher Education Act of 1965, 79 Stat. 1219 (1965), as amended, particularly 82 Stat. 634-638 (1968) (codified in scattered sections of 20 U.S.C. and 42 U.S.C.), (2) the Missouri Guaranteed Student Loan Program, Sections 173.095 - 173.190 V.A.M.S. Cum. Supp. 1968, and (3) the Regulations of the Commission on Higher Education propounded pursuant to Section 173.110 V.A.M.S. Cum. Supp. 1968, adopted June 12, 1968, and amended February 3, 1969.

From the foregoing it is the opinion of this office that:

1. The Missouri Commission on Higher Education has authority pursuant to Section 173.190 V.A.M.S. Cum. Supp. 1968 to enter into agreements with the United States Government in connection with Federal programs

Dr. Ben Morton

of assistance to students of higher education and vocational schools;

2. The Missouri Commission on Higher Education has an agreement pursuant to Section 428(b) of the Higher Education Act of 1965, 20 U.S.C.A. §1078(b) (Supp. 1968) with the United States Commissioner of Education, dated June 21, 1968, and, therefore, the United States Commissioner is empowered by 20 U.S.C.A. §1078(c) (Supp. 1969) to enter into a reinsurance agreement with the Missouri Commission on Higher Education;

3. With respect to so much of any loan insured pursuant to Sections 173.095 - 173.190 V.A.M.S. Cum. Supp. 1968 as may be guaranteed under the proposed reinsurance agreement, the undertaking of the United States Commissioner of Education under the guaranty agreement is acceptable in full satisfaction of the State law (Section 173.110 4. V.A.M.S. Cum Supp. 1968) and regulations (Section 2.11, as amended) requiring the maintenance of a reserve.

Please refer to our letter of July 24, 1969, in which we suggested certain changes in the wording of the reinsurance agreement. This opinion is not contingent upon any of the matters set forth in that letter.

Furthermore, on July 28, 1969, we wrote you concerning revision of the agreement between United Student Aid Funds, Inc. and certain lenders. Although the revision of these lender agreements is advisable, we understand that the guaranty endorsement used by United Student Aid Funds, Inc. gives notice to lenders of the Missouri statutes and regulations under which this program is administered. Therefore, lenders have already been put on notice of the possible use of reinsurance as part of the reserve.

Very truly yours,

JOHN C. DANFORTH
Attorney General